IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Bail Appl..No. 7419 of 2007()

CRIME NO. 626/07 OF PUTHENCRUZ POLICE STATION

PETITIONERS/ACCUSED

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1. M.P.AYYAPPAN, S/O. LATE PUTHENKAVI,
   AGED 38 YEARS, MANACKAKKUDIYIL HOUSE,
   PANKODU KARA, AIKARANADU NORTH VILLAGE,
   KUNNATHUNADU TALUK, PANKODU P.O., ERNAKULAM DIST.
   PIN-682 310.

2. M.P.KUTTAPPAN, S/O. LATE PUTHENKAVI,
   AGED 34 YEARS, MANACKAKKUDIYIL HOUSE,
   PANKODU KARA, AIKARANADU NORTH VILLAGE,
   KUNNATHUNADU TALUK, ERNAKULAM DIST., PANKODU P.O.,
   PIN-682 310.

BY ADV. SRI.P.P.JACOB

RESPONDENTS: COMPLAINANT

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1. T.A.MANJU, D/O. AYYAPPAN, AGED 28 YEARS,
   THOZHUTHUMPATTU HOUSE, VENKIDA KARA,
   PUTHENCRUZ VILLAGE, KUNNATHUNADU TALUK,
   ERNAKULAM DIST., PATHANANDAPURAM P.O., PIN-682308.

2. SUB INSPECTOR OF POLICE,
   PUTHENCRUZ POLICE STATION, PUTHENCRUZ P.O.,
   ERNAKULAM DISTRICT.

3. CIRCLE INSPECTOR OF POLICE,
   PUTHENCRUZ CIRCLE, PUTHENCRUZ P.O.,
   ERNAKULAM DISTRICT.

4. STATE OF KERALA, REP. BY
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

R2 TO 4 BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7419 OF 2007

Dated this the 3rd day of December, 2007

ORDER

Application for anticipatory bail. The petitioners are the husband and brother-in-law of the de facto complainant. They face allegations of having committed the offences punishable, inter alia, under Sec.498A of the IPC. The marriage took place in 2000. The spouses are not blessed with any children. It is submitted that the medical opinion shows that the lady cannot conceive. There is some strain in the matrimony. Notice demanding restitution of conjugal rights has been issued by the husband, it is submitted. It is, in this context, that the wife has filed a complaint before the learned Magistrate which has been forwarded to the police under Sec.156(3) of the Cr.P.C. Investigation is pending. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that the petitioners can now be granted anticipatory bail. In coming to this conclusion, I take note of the reality that the arrest and incarceration of the petitioners is likely to mar the matrimonial tie beyond repair. I do further take note of the submission of the learned Public Prosecutor that no external physical injury has resulted on account of the alleged cruelty. Appropriate conditions can, of course, be imposed.

3. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 10/12/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 11/12/07 and 12/12/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as

and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 10/12/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 10/12/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge